IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 15420 of 2004

Between:

Dr. Y. Shaik S/o. Shaik Masthan
R/o. Narsimhaswamy Temple Street, R. Agraharam, Guntur.

..... PETITIONER

AND

1 Government of A.P., Health and Family Welfare Department,
Secretariat, Hyderabad, rep by its secretary.
2 A.P. Medical Council Sultan Bazar, Hyderabad,
Rep. by its Registrar.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue writ of Mandamus or any other appropriate writ or direction declaring the action of the 1st respondent in not passing any orders on the stay petition filed along with the appeal on 24.8.2004 as illegal and consequently stay the order of the 2nd respondent passed in Ref. No. APMC/DC/015/Case No.6/2001 dt. 18.8.2004 pending disposal of the appeal before the 1st respondent.

Counsel for the Petitioner: MR.O.MANOHER REDDY

Counsel for the Respondent No.1: GP FOR MEDICAL HEALTH & FAMILY WELFARE

The Court made the following:

ORDER:

The petitioner is running a hospital in the name and style 'Guntur Apollo Nursing Home'. He is a medical practitioner. While he was running the hospital, the second respondent issued a notice on 5-3-2001 mentioning that in the prescription chits issued by him it was shown that he is possessing certain qualifications which are not found in the schedule to the Indian Medical Council Act, 1956. The second respondent also issued a letter on 29-9-2003 mentioning that the petitioner is giving advertisements and is exhibiting unrecognized degrees. In pursuance of the said letter, the petitioner submitted an explanation stating that the advertisements that were given were in conformity with the Rules of A.P. Medical Council. On receipt of said explanation, the second respondent issued another notice on 30-1-2004 calling to furnish the copies of the registration documents issued by the A.P. Medical Council. Ultimately on 18-8-2004, the second respondent passed the impugned order suspending the petitioner from practice for a period of six months. Aggrieved by the said order dated
18-8-2004, the petitioner preferred an appeal to the first respondent on 24-8-2004 and also an application for grant of stay of the impugned order.

The grievance of the petitioner is that so far the first respondent did not pass any order on his stay application and the second respondent is threatening to implement the order passed by it. Therefore, he approached this Court seeking declaration that the action of the first respondent in not passing any order on the stay petition filed along with the appeal on 24-8-2004, as illegal and consequently to stay the order of the second respondent pending disposal of the appeal before the first respondent and pass such other order as the Court deems fit. The petitioner, after preferring an appeal prescribed in the statute before the first respondent, approached this Court through this writ petition. He also made an application before the first respondent for grant of stay of the impugned order. Since the petitioner preferred an appeal before the first respondent, he cannot simultaneously maintain this writ petition.

The writ petition is therefore liable to be dismissed, but since the grievance of the petitioner is that the first respondent is not passing any order on the stay petition preferred by him, his right to practice is affected. Therefore, he requested to pass an interim order suspending the operation of the impugned order.

The learned Counsel for the respondents represented that since the first respondent is busy with administrative work, the matter could not be taken up for consideration.

In the light of the representation made on behalf of the first respondent and in the light of the circumstances of the matter, the impugned order dated 18-8-2004 shall be kept under suspension till the first respondent passes an order in the stay petition filed in the appeal on 24-8-2004.

Accordingly, the writ petition is dismissed with the above direction. No costs.

_____

01-09-2004

es

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary, Government of A.P., Health and Family Welfare Department,

Secretariat, Hyderabad.
2 The Registrar,A.P. Medical Council Sultan Bazar, Hyderabad,
3. 2CCs to the Government Pleader for Medical Health and Family Welfare, High Court Buildings, Hyderabad (OUT).

4. 2CD copies.